

December 6, 2010

Name  
Street Address  
City State Zip

Dear:

This letter is written to announce the signing of Act 106 of 2010 on November 23, 2010. Act 106 amends the 1945 Public Eating and Drinking Place Act and the 1994 Food Act, providing for changes in licensing and regulation of retail food establishments in Pennsylvania.

As a facility licensed and/or inspected currently by the Pennsylvania Department of Agriculture, you recognize the importance of food safety to your business and public safety. Consumer food safety will be greatly enhanced by the implementation of this Act which updates current food safety laws to reflect modern food science, eliminates duplication of inspections, provides for uniform inspection and addresses other deficiencies in current food safety laws. The changes will become effective January 22, 2011. The most current edition of the Food Code, published by the United States Food and Drug Administration, will guide our regulatory framework. This will provide, for the first time, statewide uniformity and will apply to all licensed retail food facilities, regardless of whether they are inspected by the state or local authority. As the state has done for several years, the inspection reports will be placed online for easy access by the public.

To learn more about Act 106 and specific regulatory changes, we encourage you to visit [www.eatsafepa.com](http://www.eatsafepa.com). There you will find resource materials such as a copy of Act 106, frequently asked questions, fact sheets and contact information for Department representatives. If you need clarification on any of the changes, please contact the Bureau of Food Safety at (717)-787-4315 or your local Department Food Sanitarian.

Thank you for being in the retail food business. We look forward to working with you to implement these changes and better protect our consumers.

Sincerely,

Russell C. Redding

Enclosure



# pennsylvania

## DEPARTMENT OF AGRICULTURE

BUREAU OF FOOD SAFETY & LABORATORY SERVICES

### FACT SHEET

#### LEGISLATION CHANGES FOR PDA LICENSED RETAIL FOOD FACILITIES

On November 24, 2010, Governor Rendell signed into Law new Food Safety Legislation that will become effective on January 24, 2011. The new Law will entail some changes in licensing and regulation of Retail Food Facilities (RFFs) in the Commonwealth. The new Laws can be found in the Consolidated Statutes - Chapter 57, Subchapter A – Retail Food Facility Safety Act – provides for the licensure, inspection and regulation of public eating and drinking places and retail food establishments in the Commonwealth. Chapter 65 - Food Employee Certification Act, amended, requires the certification in food safety of one employee, in most retail food facilities. The employee will be the person in charge of the retail food facility when present, but must be accessible at all times the facility is operating. Following are highlights of changes that will affect your RFF:

#### CHAPTER 57, SUBCHAPTER A - RETAIL FOOD FACILITY SAFETY ACT

- The Pennsylvania Department of Agriculture (PDA) Food Code will be the “the standard” used to inspect Retail Food Facilities (RFFs) operating in PA, regardless of licensing jurisdiction.
  - The PDA Food Code will eventually be updated to reflect the US Public Health Service, Food & Drug Administration Model Retail Food Code.
- Penalty provisions:
  - Criminal penalties (through the local district magistrate) up to \$300
  - Civil penalties (through PDA Legal Department) up to \$10,000
- Re-inspection Fees may be assessed:
  - 2<sup>nd</sup> re-inspection fee of \$150
  - 3<sup>rd</sup> re-inspection fee of \$300.
- **ALL RFF holding a PDA license will be paying \$82.00 annual renewal fee. If you are a Retail Food Facility that currently pays a \$35 dollars annual fee, on your next annual renewal you will see this fee adjusted to \$82.00.**
- The Law removes the definition of Farmers Market, therefore, ALL stands within a Farmers Markets will be considered individual Retail Food Facilities, subject to the \$82 fee. The market itself would not need a license unless it is operating a food stand itself. **If you are a market stand you will be licensed as a RFF and will pay an \$82.00 annual license fee – unless you meet one of the exemption categories for RFF.**
- **Exemption categories of RFF (exempts from licensing, but not inspection):**
  - RFF selling only prepackaged non-potentially hazardous food.
  - RFF selling only raw agricultural commodities.
  - Soup Kitchens and Food Banks operated by charitable non-profits
  - RFF operating three or fewer days per calendar year.
  - RFF which operate to promote and encourage extracurricular recreational activities for youth of primary and secondary schools on a non-profit basis (booster clubs, little league, girl / boy scouts, etc)
  - Non –Profits only offering non-potentially hazardous foods or beverages (bake sales)
- RFF requests for inspections, not required by PDA - \$150



## BUREAU OF FOOD SAFETY & LABORATORY SERVICES

### CHAPTER 65 – FOOD EMPLOYEE CERTIFICATION (FEC)

- The Department will continue to monitor and enforce FEC in their area of jurisdiction, according to current Law, Chapter 65, Food Employee Certification.
- The current FEC Law requires that each RFF must have one Certified Food employee, A certified food employee must now hold and post a valid “Nationally Accredited Food Protection Certificate” (The current programs holding ANSI-CFP Accreditation include ServSafe, Thomson Prometrics and National Registry of Food Safety Professionals).
- Although only three programs are currently nationally accredited, there are hundreds of trainers and instructors using these programs. The Department will continue to maintain a website listing those trainers and instructors that have voluntarily provided that information to us.
- After January 24, 2011, the Department will NO LONGER issue PDA certificates or collect the \$20 fee.
- Recertification requirements are set forth by each of the nationally recognized companies. The current Law will require maintenance of a valid nationally accredited certificate under whatever terms the accredited company determines. Currently recertification by the three nationally accredited providers includes retaking an examination every five years.
- Who must have a certified employee?
  - All *licensed* Retail Food Facilities
    - Exemption:
      - RFF Selling only commercially prepackaged foods
      - RFF Handling and selling all NON-potentially hazardous foods
      - RFF who is a 501 (c)(3) non-profit
      - RFF who is a not-for-profit; such as, churches, fire halls, civic groups, fraternal organizations
- PDA will continue to accept the PDA issued FEC Certificate, as meeting the requirements of the Law, until the time of its expiration. Once the PDA Certificate expires a National Certificate must be displayed in the facility for the Certified Food Handler.
- There must be *one* certified person per facility. The certified person is the “person in charge” when present at the facility, and they must be *accessible* at all times a facility is operating.
- Individuals may only be the certified employee at ONE retail food facility, except in the case of multiple food stands owned by the same person, and located at a single event, fair, or festival.

**For questions or concerns regarding the changes in Chapter 57 or Chapter 65, visit our web site at [www.EatSafe PA.com](http://www.EatSafe PA.com) , contact your local Food Sanitarian, or call 717-787-4315 or 1-800-366-3723**